

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY EIGHTH DAY OF NOVEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION No. 25211 of 2005

Between:

Sanaboina Pullaiahsetty

..... PETITIONER

AND

The Regional Joint Commissioner of Endowments,

Multi Zone-I, Kakinada and 2 others

.....RESPONDENTS

ORDER:

Seeking a Mandamus, declaring the action of the 1st respondent in dismissing the appeal No.80/2005, dated 13.07.2005, rejecting the claim of the petitioner as a small farmer and also a landless poor person as defined under Section 82 of the Endowments Act, as illegal and arbitrary, the present writ petition is filed.

Heard the learned counsel for the petitioner and the learned Government Pleader for Endowments.

It is stated that the petitioner made an application before the 2nd respondent requesting to declare him as a landless poor and also protect his possession in respect of leasehold rights of Devasthanam under Section 82. The said application of the petitioner has been dismissed by the 2nd respondent on 28.03.2005, on the ground that the petitioner is a lessee in respect of Ac.4.54 cents of wet land in R.S.No.103/1 and Ac.3.79 cents of dry land in R.S.No.103/2 belongs to the 3rd respondent Devasthanam, and as per the explanation under Section 82(2) of the Act 30/87 read with Amendment Act 28/2002, dated 22.12.2002, the petitioner will not declared as a small farmer, and therefore, the petitioner is not entitled for any benefits, treating him as a small farmer. As against the said order dated 28.03.2005, the petitioner filed an appeal before the 1st respondent and the 1st respondent dismissed the said appeal by the impugned order dated 13.07.2005.

In fact the lease was granted in favour of the petitioner alone and merely because his brothers have disputed the said land and cultivating the same separately, is not a ground to declare that the petitioner is a landless poor, as held by the Division Bench of this Court in W.P.No.1302/2003, dated 05.08.2003. The learned counsel for the petitioner also fairly conceded that the petitioner cannot question the concurrent findings of the both the authorities, but he only submitted that now the standing crop is there on the land in question and hence seeks permission to harvest the standing crop for this season.

I am not inclined to express any opinion on merits of the case. But, having regard to the facts and circumstances of the case, I deem it appropriate to dispose of the writ petition, with a direction to the petitioner to make a representation before the 3rd respondent for appropriate relief to cut the standing crop on the land in question for this season, within a period of two weeks from the date of receipt of a copy of this order, and on filing such application, the 3rd respondent may consider and dispose of the same, in accordance with law, within a period of two weeks from the date of such application.

With the above observations, the Writ Petition is dispose of. No order as to costs.

V.ESWARAIAH,J

Dated: 28.11.2005

Dsr

Note:

Issue CC in three days

B/o

Dsr